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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ANGELA LORRAINE HERRERA
7348 Valeria Drive Apt. 15
Highland, California 92346

Respiratory Care Practitioner License No. 21012

Respondent.

Case No. R-2049

**DEFAULT DECISION
AND ORDER**

[Government Code § 11520]

FINDINGS OF FACT

1. On or about January 10, 2007, Complainant Stephanie Nunez, in her official capacity as Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs, State of California, filed Accusation No. R-2049 against Angela Lorraine Herrera (Respondent) before the Respiratory Care Board (Board).

2. On or about August 19, 1999, the Board issued Respiratory Care Practitioner License Number 21012 to Respondent. This license will expire on April 30, 2007, unless renewed.

3. On or about January 10, 2007, Jennifer Porcalla, an employee of the Complainant Agency, served by Certified and First Class Mail a copy of the Accusation No. R-2049, Statement to Respondent, Notice of Defense, Request for Discovery, and Government

1 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board
2 at 7348 Valeria Drive, Apt. 15, Highland, California 92346. A copy of the Accusation, the
3 associated supplemental documents, and Declaration of Service are attached hereto as Exhibit A,
4 and incorporated as if fully set forth herein.

5 4. The above-described service of the Accusation was effective as a matter of
6 law pursuant to the provisions of Government Code section 11505, subdivision (c).

7 5. On February 14, 2007, the documents served by Certified and First Class
8 Mail were returned to the Board by the U.S. Postal Service marked "Attempted - Not Known."
9 A copy of the postal returned documents are attached as Exhibit B, and are incorporated herein
10 by reference.

11 6. Government Code section 11506 states, in pertinent part:

12 "(a) Within 15 days after service of the accusation, the respondent may file with
13 the agency a notice of defense.

14 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
16 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
17 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

18 7. Respondent failed to file a Notice of Defense within 15 days after service
19 upon her of the Accusation, and therefore waived her right to a hearing on the merits of
20 Accusation No. R-2049.

21 8. California Government Code section 11520 states, in pertinent part:

22 "(a) If the respondent either fails to file a notice of defense or to appear at the
23 hearing, the agency may take action based upon the respondent's express admissions or upon
24 other evidence and affidavits may be used as evidence without any notice to respondent."

25 9. Pursuant to its authority under Government Code section 11520, the Board
26 finds Respondent is in default. The Board will take action without further hearing, and based on
27 Respondent's express admissions by way of default and the evidence before it, contained in
28 Exhibit A, finds that the allegations, and each of them, in Accusation No. R-2049 are true.

1 10. The Respiratory Care Board further finds that pursuant to Business and
2 Professions Code section 3753.5, the costs of investigation and enforcement of the case prayed
3 for in the Accusation total \$1,269.00 based on the Certification of Costs contained in Exhibit C.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Angela Lorraine
6 Herrera has subjected her Respiratory Care Practitioner License No. 21012 to discipline.

7 2. Service of the Accusation and the related documents was proper and in
8 accordance with the law.

9 3. The agency has jurisdiction to adjudicate this case by default.

10 4. The Board is authorized to revoke Respondent's Respiratory Care
11 Practitioner License based on violation of Business and Professions Code section 3750.5,
12 subdivision (b), use of a controlled substance, as alleged in the Accusation.

13 5. Respondent is hereby ordered to pay the above costs of investigation and
14 enforcement of this action.

15 ORDER

16 1. Respiratory Care Practitioner License No. 21012, heretofore issued to
17 Respondent Angela Lorraine Herrera, is hereby revoked.

18 2. If Respondent ever files an application for relicensure or reinstatement in
19 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
20 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
21 effect at the time the petition is filed.

22 3. Respondent is ordered to reimburse the Board the amount of \$1,269.00
23 for its investigative and enforcement costs. The filing of bankruptcy by Respondent shall not
24 relieve Respondent of her responsibility to reimburse the Board for its costs. Respondent's
25 Respiratory Care Practitioner License may not be renewed or reinstated unless all costs ordered
26 under Business and Professions Code section 3753.5 have been paid.

27 4. Pursuant to Government Code section 11520, subdivision (c), Respondent
28 may serve a written motion requesting that the Decision be vacated and stating the grounds relied

on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on May 10, 2007.

It is so ORDERED April 10, 2007.

Original signed by:

LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA